IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 865 OF 2006 (MS)

Mahendra Kumar,
Aged about 50 years,
S/o Sri Indraraj Mal,
R/o M/s Ravi Industries Sitarganj,
District Udham Singh Nagar. .....Petitioner/

Versus

1. Commissioner, Workman Compensation, Haldwani, Nainital.
2. Niyamat Sah, S/o Ajmat Sah, R/o Village Raipur, P.S. Amaria, Tehsil & District Pilibhit.

.....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri B.D. Upadhyay, Advocate for the petitioner and Standing Counsel for the respondent no. 1. Both the parties have agreed that let the matter be finally disposed of at the admission stage.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the notice dated 27th January, 2005.

Briefly stated, according to the case of the petitioner, proceeding under the Workman Compensation Act was initiated on 27th January, 2005 claiming a sum of Rs. 3,25,000/- towards compensation with 12% interest when in point of fact in the year, 2001, the demand was of Rs. 2,16,910 with 12% interest by way of claim petition. Both the parties have entered into a compromise by which the petitioner agreed to pay a sum of Rs. 2,79,662.08 to the respondent to the full satisfaction of the claim under the workman

compensation Act, 1923. The petitioner has already issued two cheques and paid the amount.

Accordingly the petitioner has submitted that the present notice is liable to be quashed on the ground of res judicata as the case has already been decided earlier in pursuance of the agreement between the parties.

Considering the aforesaid grievance, liberty is given to the petitioner to file objections along with the compromise entered into between the parties and in case such a plea is taken, the workman compensation Haldwani, District Nainital shall consider the same in accordance with law and shall decide the claim petition expeditiously within a period of two months from the date of presentation of the certified copy of this order.

In view of the above, writ petition is disposed of. No order as to as to costs.

(Rajesh Tandon, J.)

07.07.2006
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